PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RONAN P. DULANAS, APPELLANT.

G.R. No. 159058. May 03, 2006

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

In its decision dated January 28, 2000, in Criminal Case No. 24,413-91, the Regional Trial Court of Davao City, Branch 15, found appellant Ronan P. Dulanas guilty of homicide. On appeal, the Court of Appeals in its decision[1] of July 18, 2003, found appellant guilty of murder and imposed upon him the penalty of reclusion perpetua. As required by the former provisions of Section 13, Rule 124 of the Rules of Court,[2] the Court of Appeals refrained from entering judgment and certified the case to the Supreme Court for review.

The antecedent facts of this case, culled from the records, are as follows:

> Appellant was charged of murder before Branch 15 of the Regional Trial Court of Davao City, under the information which reads:
>
> That on or about October 7, 1991, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, the above-mentioned accused with treachery and evident premeditation, armed with a gun and with intent to kill, wilfully, unlawfully, and feloniously attacked, assaulted and shot with said gun one MICHAEL AWAD,[3] thereby inflicting upon him the following:
>
> WOUND, GUNSHOT.
>
> CAUSE OF DEATH: NEUR[O]GENIC SHOCK 2% GUNSHOT
> WOUND OF THE SPINAL CORD,
> HEMORRHAGE, SEVERE CONTRIBUTORY
>
> which injuries caused his death.
>
> CONTRARY TO LAW.[4]

During his arraignment, appellant pleaded not guilty. Thereafter, he filed a petition for bail which was granted by the then Presiding Judge William Layague, on the ground that the evidence of guilt was not strong.

Aggrieved, the prosecution filed a motion for reconsideration and sought to inhibit Judge Layague. Judge Layague inhibited himself and the case was re-raffled to Branch 16, under presiding Judge Romeo Marasigan, who denied the motion for reconsideration.

During the trial, the prosecution adopted the evidence presented at the hearing on the petition for bail. Its version of the incident is as follows:

At around nine o'clock in the evening of October 7, 1991, Michael Awad and his wife, Maria Linda Cuares Awad,[5] were inside their store at Juna Subdivision in Davao City. The store formed part of their house, the

living quarters and the store being separated only by a wall. The couple had already closed the store for the night and were talking when they heard someone knocking at the door, asking to buy beer.

Michael Awad replied that they were already closed, but decided to open the door which was only two meters away from where he was. With both hands, he removed the wooden bar securing the door. He bent to place the bar on the ground with his right hand while holding the door handle with his left hand. The small door swung and fully opened.

At that moment, Maria was only two meters away from Michael. When her husband opened the door, the light in and out of the store, and in the electric post just beside the store, illuminated appellant Ronan Dulanas from his shoulder up. Instantaneously after Michael opened the door, Maria heard a gunshot and saw Michael slump to the cement floor.[6] She rushed to Michael, tried to carry him, but was unable to move him. She looked back towards the door, but appellant was no longer there. She went outside looking for him. A few feet outside their door[7] she saw appellant, about five meters away from her, putting something in his bag before opening the door of a waiting car. He glanced at Maria as he was boarding the car. Scared that appellant might come back for her, she dashed back inside her house, closed the door, and went to Michael to hold his head.[8] When she heard the car speeding away, she cried for help. Three neighbors came and brought Michael to the Davao Doctor's Hospital where he was pronounced dead on arrival.[9] Maria, meanwhile, stayed home with her two children.

Senior Police Officer I Florencio Mira of the Talomo Police Station, the lead investigator, narrated that he asked Maria twice if she knew who shot her husband. He said she simply kept crying hysterically. Four or five bystanders whom he interviewed told him that three armed, unidentified persons came to Michael's store and one shot Michael as he was opening the door.[10] He then returned to the police headquarters and wrote the incident in the police blotter. Afterwards, he went to the hospital, and was later informed by Maria, who had calmed down, that it was appellant who shot her husband.[11]

SPO1 Mira and other policemen immediately went to appellant's residence but did not find anyone. Mira made a second entry on the police blotter, stating that Maria had named appellant as the assailant and noted the entry as "strictly off the press."[12]

Medico-Legal Officer Dr. Danilo P. Ledesma of the City Health Office of Davao City, autopsied Michael Awad's body on October 8, 1991. He prepared a Necropsy Report and the death certificate, indicating that the cause of death was "neurogenic shock secondary to gunshot wound of the spinal cord, hemorrhage, severe contributory."[13] He testified that the entrance wound was on the upper right side of the chest and that he recovered the slug underneath the skin at the level of the 5th thoracic vertebra.[14] He added that the presence of gunpowder burns in the entry wound and the location of the wound meant that the gunman was directly in front of Michael and that the gun was fired within 24 inches from Michael. He also opined that the downward trajectory of the slug meant that the victim was either stooping or crouching or was lower than the assailant at the time of the shooting.[15]

Maria Awad and the victim's mother, Souad Awad, also testified. Maria submitted copies of Michael's Income Tax Returns for the years 1988 to 1990. Souad Awad testified that Michael had started working at his brother's poultry and had been given a check for P3,000 as payment of his salaries for the first month. She also presented receipts to prove that a total of P44,202 was spent for Michael's funeral.[16]

For his defense, appellant interposed denial and alibi. Appellant claimed that he was at home 200 to 300 meters away from the scene of the incident, from 6:00 p.m. on October 7, 1991 to 6:00 a.m. the following day.[17] According to him, he had to stay home with his parents, his wife, and some helpers because his wife, seven months pregnant was having a difficult pregnancy and was in danger of having a miscarriage. He said he learned

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about Michael's murder from the newspapers only on October 9, 1991. He denied that policemen went to his house on October 7, 1991.[18]

Appellant explained that he used to frequent Awad's store but stopped in 1991 when Michael filed criminal cases against him, for attempted homicide, grave threats, illegal discharge of firearm, estafa, and slight physical injuries. These cases, however, were all dismissed. He added that his work as Liaison Officer for the Rural Bank of Malalag and later as manager of a pawnshop required him to carry a .45 caliber gun.[19]

The defense also presented Leo Villareal and Bobby Agodolo to refute the testimony of prosecution witness SPO1 Mira that Maria had identified appellant.

Leo Villareal, a radio reporter and a news writer for the Mindanao Daily Mirror, testified that he reported on Awad's murder. He testified that he copied the October 8, 1991, police blotter entry at the Talomo Police Station on October 8, 1991. The blotter, according to him, stated that it was Maria, and not Michael, who opened the window of the store to sell cigarettes to the person calling outside, and that Michael was shot by unidentified assailants while inside the house. He added that he followed-up the case several times but never saw any entry identifying appellant as the prime suspect in the murder.[20]

Bobby Agodolo, a radio announcer for DXMF Radio Bombo and a news writer for Ang Peryodiko Dabaw, testified that he also read the October 8, 1991, police blotter entry. He corroborated Villareal's testimony that the police blotter had no mention of appellant as a suspect nor that the victim was shot inside his house.[21]

Lastly, the defense presented Roland Cabrera, appellant's high school classmate and close friend. Cabrera claimed that around 9:00 p.m. on October 7, 1991, he was walking along Francisco Street in Juna Subdivision looking for a mason named Boy, who lived in Manga Street. He averred that when he passed the closed store of Michael, he saw three persons near it. When he was ten to fifteen meters past the store, he heard a gunshot, turned around, and saw one of the three carrying a gun, running towards a red getaway car parked only five meters away from the store. The three made a fast get-away in the car. He swore that appellant was not among the three.[22]

On rebuttal, the prosecution presented Senior Police Inspector Alberto Ginese who testified that the second police blotter entry identifying appellant as the killer was made strictly off-the-press pursuant to standard operating procedures.

When Judge Marasigan retired, the case was reassigned to Judge Jesus Quitain, Branch 15.

Judge Quitain gave full credence to the testimony of prosecution eyewitness Maria Linda Cuares Awad and found no merit in appellant's uncorroborated alibi. In his Decision dated January 28, 2000, Judge Quitain convicted appellant of homicide and sentenced him to suffer the penalty of 10 years of prision mayor, as minimum, to 17 years, 8 months and 1 day of reclusion temporal, as maximum. Appellant was further ordered to pay Maria Linda Cuares Awad an indemnity of P50,000.[23]

On appeal, the Court of Appeals found appellant guilty of murder qualified by treachery and sentenced him to suffer the penalty of reclusion perpetua. The Court of Appeals likewise ordered him to pay actual damages of P44,202, compensation for loss of earning capacity in the amount of P85,980, and moral damages of P100,000 in addition to the civil indemnity of P50,000.[24]

Without entering judgment, the case was certified to this Court for review.

Before us, appellant initially contended that:

> THE COURT OF APPEALS ERRED IN CONVICTING APPELLANT OF THE CRIME OF MURDER DESPITE THE INHERENT WEAKNESS OF THE PROSECUTION'S EVIDENCE.

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> THE COURT OF APPEALS ERRED IN INCREASING THE MONETARY AWARD IN FAVOR OF PRIVATE COMPLAINANT.[25]

Subsequently, in his second supplemental brief, he averred that the appellate court additionally committed a palpable mistake in

> x x x CONCLUDING THAT FROM THE CIRCUMSTANTIAL EVIDENCE IT CONSIDERED FOR EVALUATION, ACCUSED-APPELLANT WAS THE TRIGGERMAN; and
>
> x x x NOT CONSIDERING FOR EVALUATION THE SINGLE PIECE OF PHYSICAL EVIDENCE CONCLUSIVELY PROVING THAT ANOTHER PERSON, NOT ACCUSED-APPELLANT, WAS THE TRIGGERMAN.[26]

The sole issue now for our resolution is whether there is sufficient proof that appellant is guilty of murder beyond reasonable doubt.

Appellant disputes the identification by Maria of appellant as the person who shot her husband. He contends that Maria's identification of him as the gunman was mere speculation. Appellant points out that Maria herself testified that she only saw appellant from the shoulder up and did not see him point a gun much less fire at her husband. Likewise, prosecution witness SPO1 Florencio Mira and defense witness Roland Cabrera had both testified that there were three unidentified persons.[27] Thus, their testimonies raised the possibility that Michael could have been shot from other directions by any of the three present in the crime scene.

Appellant adds that the Court of Appeals erred in concluding that Dr. Ledesma's testimony supported Maria's declaration that no other person could have shot Michael within 24 inches except appellant.[28] He stresses that there is no direct evidence implicating him, except his alleged presence in the scene of the crime. Neither were there other circumstantial evidence against him.[29] In fact, he points out, it was physically impossible for him to have fired the gun within 24 inches of Michael. Even Maria allegedly testified that appellant was three meters away from the victim at the time of the shooting.[30]

Well settled is the rule that the findings of lower courts which are factual and which revolve on matters of credibility of witnesses deserve respect when, as in this case, no glaring errors bordering on gross misapprehension of the facts, or where no speculative, arbitrary and unsupported conclusions, can be gleaned from such findings.[31]

Contrary to appellant's contention in his second supplemental brief, Maria did not testify that appellant was three meters away from Michael at the time of the shooting. True, Maria testified on cross-examination that she was two meters away from Michael while appellant was five meters away from her. It is worthy to note that Maria, however, explained on re-direct examination that she was referring to two different points in time. Maria made it clear that at the time of the shooting, appellant was more or less only about a meter away from Michael and that she was only two meters away from Michael. At the time she went outside the house to look at where appellant went, appellant was five meters away from her. The pertinent portion of her testimony reads:

A It is like this Sir, when my husband was shot, I was two (2) met away from him, but after the shot, when I run outside, I was five (5) meters away from the gunman.

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ATTY. MARTIN SUELTO:

Q At that time that your husband was as you said still [crouching] or bending when you heard the shot and you saw Dulanas shot your husband, tell the Court if you know how far was your husband from the accused Dulanas?

COURT INTERPRETER:

The witness is now standing and is trying to describe the position and distance between Michael and Dulanas.

A From this point up to this point.

Court:

About a meter, more or less.[32]

Appellant's theory concerning the incident is difficult to accept. Assuming that one of the three assailants shot Michael, then the three assailants would have to be crowding by the door when Michael opened it. The physical evidence showed that the gun was fired from a distance of only 24 inches when the victim was opening the door and placing the bar by the door. Since the victim had to be well inside the house about one foot from the opening and the shot was made at a close range, following appellant's assertion, all three assailants would have to be standing shoulder to shoulder by the door, which is only 27 inches wide.[33] This crowding of three persons in such a small space to us is quite unnatural. It is contrary to normal behavior of criminals intending to kill and then planning a fast get-away. Definitely, the three could not be crowding each other. Neither would they all be behind appellant. The gunman would naturally be the person nearest the victim to be as close to his target as he could.

Roland Cabrera's testimony relied upon by appellant to corroborate his story does not suffice to discredit Maria's testimony. As correctly pointed out by the Solicitor General, what Cabrera testified to was that after he heard a gunshot, he turned around and saw three persons running towards a red getaway car. Cabrera's statement does not support the theory that any one of the three could have shot Michael within a distance of 24 inches.

Moreover, Cabrera testified that he was purportedly looking for a mason named Boy to make hollow blocks for his house. Yet, his house had already been completed five weeks earlier and he had no need for more hollow blocks for his house. Also, while Cabrera claimed to be familiar with Manga Street in Juna Subdivision[34] where Boy lived, Cabrera in the dark of night, curiously took the roundabout way of more than a kilometer, passing several out-of-the-way streets including Francisco Street where Michael's store was located, to get to Manga Street which was only a few meters from where he started his search. For Cabrera's testimony to be credible, it must also pass the test of common sense.

Maria's failure to mention the other two malefactors would not detract from the veracity of her testimony. It simply means that she did not see them from where she was.

We find People v. Gamer[35] cited by appellant inapplicable here. Unlike the prosecution eyewitness in Gamer,

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Maria never wavered in her identification of appellant. From the beginning and even under rigorous cross-examination, Maria steadfastly declared that it was only appellant whom she saw when her husband opened the door and who could have been responsible for the killing.[36] She testified:

Q

You said that when your husband opened the door and also placed the wooden bar down and at the same time opening the wooden door of your residence and store, there was a shot, will you please tell us if you saw the person who shot?

A Yes, sir.

Q Who was the person who shot Michael Awad?

A Ronan Dulanas.

Q

When you said that the person who shot your husband, Michael Awad is one Ronan Dulanas, if that Ronan Dulanas is in Court, will you please point to him?

A

That one. (Witness pointing to a person inside the Courtroom, at the back, wearing a white shirt with collar and also wearing eyeglasses and when asked his name, he identified himself as Ronan Dulanas).

x x x x

Q Will you please tell us why you were able to identify that the person who shot your husband when your husband opened the wooden door was Ronan Dulanas?

A Because I saw him.[37]

She further testified on cross-examination:

Q And you are telling the Honorable Court that you saw the accused clearly in your front when the door was opened by your husband?

A Yes Sir.[38]

Direct evidence of the commission of the crime is not the only matrix from which a trial court may draw its conclusion and finding of guilt. Even in the absence of direct evidence, conviction is proper if the established factual circumstances constitute an unbroken chain and are consistent with each other and with the hypothesis that the accused is guilty, to the exclusion of any other hypothesis that he is not.[39]

The testimony of Maria that she saw appellant directly in front of Michael when Michael opened the door, and that Michael was shot while still bending is corroborated by the medical testimony of Dr. Ledesma. Based on the location of the wound and the trajectory of the bullet, Dr. Ledesma testified that the assailant responsible for the killing was directly in front of the victim and that the victim was on a lower level than the assailant. Their testimonies, when considered with the fact that appellant was the only person outside the door,[40] was only a meter directly in front of Michael at the time of the shooting, and was seen escaping from the scene of the crime immediately after the shooting, indubitably establish that it was appellant who killed Michael.

Between the categorical statements of Maria and appellant's bare denials, the former must prevail. Notably also, appellant did not present his wife, his parents, nor his house companions who were supposedly with him at home, to corroborate his alibi. Denial when unsubstantiated by clear and convincing evidence, is negative, self-serving and merits no weight in law. It cannot be given greater evidentiary value than the credible testimony of Maria, who unequivocally testified on affirmative matters.

Appellant makes much of the prosecution's failure to show that the alleged caller was persistent in buying beer to make Michael open the door despite being told the store had already close; the absence of an explanation why Michael chose to open the door instead of the store's small transaction window; and the contradiction in Maria's testimony that her husband was shot inside the house vis SPO1 Mira's testimony that Michael was shot outside.[41]

We find appellant's arguments lame, to say the least. We can never be privy to the deceased's reasons for choosing to open the door. Neither can Maria divine her husband's reasons. The dead husband's decision to act one way or another does not affect Maria's credibility. Lastly, SPO1 Mira never said that Michael went out and was shot outside the house. SPO1 Mira testified that Michael was shot when he was about to open the door.[42]

Appellant further questions the Court of Appeals observation that Maria's hysteria explained her failure to immediately disclose appellant's identity to the police. He claims that Maria was not in such a state since she was conscious enough to answer SPO1 Mira's queries, and aware of what was happening around her. He cites her apparent self-control immediately after her husband was shot, such that she was calm enough to stay home with her children while neighbors brought Michael to the hospital. Appellant likewise doubts Maria's avowal of concern for Michael's life, when she decided to stay home with her kids. Further, he alleges, Maria strangely failed to report him to the police to be immediately arrested. He cites People v. Faustino,[43] where this Court said that the natural tendency would have been to report a crime and to describe the malefactors at the earliest opportunity, especially where the victim is so closely connected to the witness who claims to have seen the commission of the crime.[44]

The stance taken by appellant is unconvincing. In our view, Maria's actions were natural and within the bounds of expected human behavior. Her actions reveal a spontaneous and natural reaction of a person who has yet to fully comprehend a shocking and traumatic event. Besides, the workings of the human mind are unpredictable. People react differently to emotional stress. There is simply no standard form of behavioral response can be expected from anyone when confronted with a strange, startling or frightful occurrence.[45]

Next, appellant points out that the appellate court erred in not giving credence to the unbiased testimonies of Leo Villareal and Bobby Agodolo, who both testified that based on the blotter report of the police, someone knocked to buy cigarettes and that when Maria opened the window, Michael, who was resting inside the house, was shot dead.

No error, in our view, was committed by the appellate court in this regard. As previously held,[46] entries in the police blotter, though regularly done in the course of the performance of official duty, are not conclusive proof of the truth of such entries and should not be given undue significance or probative value, for they are usually incomplete and inaccurate. Entries in official records made in the performance of his duty by a public officer or by a person in the performance of a duty specially enjoined by law are only prima facie evidence of the facts therein stated. To be admissible in evidence, it is essential that the person who made the entries had sufficient knowledge of the facts by him stated, which must have been acquired by him personally or through official information.[47] In this case, SPO1 Mira merely gathered his information from the four to five bystanders he saw at the store.

Moreover, the inaccuracy in the testimony of the two witnesses, Villareal and Agodolo, is apparent. If indeed it was Maria who opened the small window of the store, then it would have been impossible for the gunman to shoot Michael who was resting inside the house, for Maria would be in the line of fire and she would have been the one hit.

Appellant claims that since the judge who penned the decision was not the judge who presided over the trial, Judge Layague's assessment of the evidence during the hearing on the application for bail should have been the one considered.[48] But Judge Layague's assessment of the evidence for purposes of granting bail is merely preliminary and is not conclusive. That assessment did not bind another judge, nor prevent the latter from reaching a different conclusion regarding appellant's guilt. The standards in evaluating evidence for purposes of bail and determining guilt beyond reasonable doubt are different.

During summary bail hearings, it may be stressed, the court does not sit to try the merits or enter into any extended inquiry on the weight of the evidence for or against the accused. Nor will it speculate on the outcome of the trial or on what further evidence may be offered and admitted.[49]

In our view, Judge Layague misappreciated the testimony of Dr. Ledesma that the victim was shot within 24 inches and Maria's testimony that there were no other persons within that range except appellant.

Moreover, the fact alone that the ponente in the trial court did not hear the testimonies of the witnesses, would not automatically warrant a reversal of the decision nor would it per se render his decision void. The judge who was not present during the trial can rely on the transcript of stenographic notes taken during the trial as basis of his decision. Such reliance does not violate substantive and procedural due process of law.[50]

Appellant's assertion that Maria was motivated by vengeance against him because all the criminal cases Michael had filed against him were dismissed does not hold water. As we have held repeatedly, it would be unnatural for a relative who is interested in vindicating the crime to implicate persons other than the real culprits lest the guilty go unpunished.[51] The earnest desire to seek justice for a dead kin is not served should the witness abandon his conscience and prudence, and blame one who is innocent of the crime. Absent any showing that the principal witness was motivated by improper motives, the presumption is that she was not so moved.

Appellant is guilty of murder, qualified by treachery, for the wrongful death of Michael. Treachery was evident in the manner by which the crime was committed. The attack upon Michael was a sudden, treacherous and violent aggression without warning. He was tricked into opening the door of the store, and then he was immediately fired

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upon. A gun was used and fired point blank at his chest to ensure death.

Article 248 of the Revised Penal Code, as amended, imposes the penalty of reclusion perpetua to death for murder. The Court of Appeals was correct in imposing the penalty of reclusion perpetua, there being no aggravating nor mitigating circumstance under Article 63, paragraph 2 of the Revised Penal Code.[52]

The appellate court's award of P50,000 as civil indemnity is in line with existing jurisprudence.[53] So is the award of actual damages of P44,202, representing the receipted amount spent for Michael's funeral and burial. Both are sustained.

For the treachery, P25,000 is further awarded to the heirs of the victim as exemplary damages. In People v. Catubig,[54] we ruled that insofar as the civil aspect is concerned, exemplary damages in the amount of P25,000 is recoverable if there is present an aggravating circumstance, whether qualifying or ordinary, in the commission of the crime. Attorney's fees in the amount of P25,000 is also awarded.[55]

The award of P100,000 as moral damages is reduced, bearing in mind that the award of moral damages is essentially by way of indemnity and reparation and that its purpose is not to enrich the heirs of the victim but to compensate them for injuries to their feelings. Conformably to prevailing jurisprudence, we reduce the amount to P50,000.[56]

Lastly, we modify the award for loss of earning capacity. Michael was 37 years old at the time of his death. His annual income from his business, based on his last income tax return, was P20,265. Additionally, he was receiving P3,000 monthly or P36,000 annually from working at his brother's poultry. Thus, he had a gross annual income of P56,265. Applying the formula for computing loss of earning capacity,[57] the indemnity for loss of earning capacity accordingly should have been P806,465.

WHEREFORE, the Court of Appeals' decision dated July 18, 2003, in CA-G.R. CR No. 24445 finding appellant Ronan P. Dulanas guilty beyond reasonable doubt of the crime of murder and sentencing him to suffer the penalty of reclusion perpetua is AFFIRMED WITH MODIFICATION. Appellant is ordered to pay the heirs of the victim Michael Awad the following amounts:

- P50,000 as civil indemnity;

- P44,202 as actual damages;

- P806,465 as indemnity for loss of earning capacity of the deceased Michael Awad;

- P50,000 as moral damages;

- P25,000 as exemplary damages; and

- P25,000 as attorney's fees.

Costs de oficio.

SO ORDERED.

Carpio, Carpio Morales, Tinga, and Velasco, Jr., JJ., concur.

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[*]"Dolanas" in some parts of the records.

[1]CA Rollo, pp. 294-311. Penned by Associate Justice Mercedes Gozo-Dadole, with Associate Justices Conrado M. Vasquez, Jr., and Rosmari D. Carandang concurring.

[2]As amended by A.M. No. 00-5-03-SC effective October 15, 2004.
SEC. 13. Certification or appeal of case to Supreme Court. - (a) Whenever the Court of Appeals finds that the penalty of death, be imposed, the court shall render judgment but refrain from making an entry of judgment and forthwith certify the case and elevate its entire record to the Supreme Court for review.

[3]Sometimes referred to as "George Michael" or "Michael George" in the Records.

[4]Records, p. 1.

[5] Sometimes referred to as "Marilyn" in the Records.

[6] TSN, November 29, 1991, pp. 3-15; TSN, December 5, 1991, p. 7; TSN, December 20, 1991, Ocular Inspection, pp. 3-7.

[7] TSN, December 5, 1991, id. at 8.

[8]TSN, November 29, 1991, p. 17; TSN, December 5, 1991, pp. 3, 17.

[9] TSN, November 29, 1991, id. at 16-19.

[10] Id. at 21-24; TSN, December 20, 1991, pp. 56, 59-60, 68, 70-71.

[11] TSN, December 20, 1991, id. at 12-13, 20, 61-62.

[12] Id. at 62-64.

[13] Exhibit "A," "B," "B-1," "B-2," records, pp. 139-140.

[14] TSN, November 29, 1991, p. 25.

[15]Id. at 27-29, 38-39.

[16] TSN, November 26, 1992, pp. 15-16, 18-21; Exhibits "HH," "II," "JJ," "PP," "KK," "LL," and "NN," records, pp. 407, 409, 411, 412-A-412-B, 414-415.

[17]TSN, August 21, 1996, p. 76; TSN, March 18, 1997, p. 3.

[18] TSN, August 21, 1996, id. at 76-78.

[19] TSN, March 18, 1997, pp. 10-11, 16-17.

[20] TSN, August 20, 1996, pp. 2, 6-12.

[21] Id. at 36-42.

[22]TSN, July 2, 1997, pp. 4-11, 16.

[23]Records, pp. 936-951.

[24] Rollo, p. 200.

[25]Id. at 152.

[26] Id. at 257-258.

[27]Id. at 155-158.

[28] Id. at 159-161

[29] Id. at 263-268.

[30]Id. at 272-273.

[31] People v. Mirafuentes, G.R. Nos. 135850-52, January 16, 2001, 349 SCRA 204, 214.

[32]TSN, December 5, 1991, pp. 34-35.

[33] TSN, December 20, 1991 (afternoon session - 2:35 p.m.), pp. 4-5.

[34] TSN, July 2, 1997, p. 29.

[35]G.R. No. 115984, February 29, 2000, 326 SCRA 660.

[36] TSN, November 29, 1991 (afternoon session), pp. 13-14; TSN, December 5, 1991, p. 15.

[37] TSN, November 29, 1991, (afternoon session), pp. 13-14.

[38]TSN, December 5, 1991, p. 15.

[39] Ungsod v. People, G.R. No. 158904, December 16, 2005, p. 11; People v. Corre, Jr., G.R. No. 137271, August 15, 2001, 363 SCRA 165, 179-180.

[40] TSN, December 5, 1991, p. 10.

[41]Rollo, p. 158.

[42] TSN December 20, 1991, p. 70.

[43]G.R. No. 129220, September 6, 2000, 339 SCRA 718.

[44] Rollo, p. 166.

[45] People v. Castillo, G.R. No. 118912, May 28, 2004, 430 SCRA 40, 48-49.

[46]People v. San Gabriel, G.R. No. 107735, February 1, 1996, 253 SCRA 84, 91-92.

[47] Id.

[48]Rollo, pp. 176-177.

[49]People v. Hapa, G.R. No. 125698, July 19, 2001, 361 SCRA 361, 374.

[50]Id. at 375.

[51]People v. Agudez, G.R. Nos. 138386-87, May 20, 2004, 428 SCRA 692, 704-705.

[52] Art. 63. Rules for the application of indivisible penalties.-x x x.
In all cases in which the law prescribes a penalty composed of two indivisible penalties the following rules shall be observed in the application thereof:
x x x x
2. When there are neither mitigating or aggravating circumstances in the commission of the deed, the lesser penalty shall be applied.

[53] Ungsod v. People, supra note 39.

[54] G.R. No. 137842, August 23, 2001, 363 SCRA 621.

[55]See People v. Aringue, G.R. No. 116487, December 15, 1997, 283 SCRA 291, 307; Ungsod v. People, supra

note 39 at 7, 17.

[56]Sullon v. People, G.R. No. 139369, June 27, 2005, 461 SCRA 248, 259.

[57] In accordance with the American Expectancy Table of Mortality adopted by this Court, the loss of earning capacity is calculated as follows:
Net earning capacity (x) = life expectancy x gross-living expenses annual (50% of gross annual income)
Nueva España v. People, G.R. No. 163351, June 21, 2005, 460 SCRA 547, 553.

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